

Agenda

Item #9

October 24, 2008

Jonathan Wayne, Esq.
Executive Director
Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333

**Re: Unreported Expenditures Made On Behalf of House Candidate William C. Dow,
District 112, and Leslie Fossel, District 53.**

Dear Director Wayne:

On behalf of the Maine Democratic Party, we wish to file complaints against William C. Dow (District 112) and Leslie Fossel (District 53) and raise the issue of whether matching funds should be allocated to the respective MCEA candidates Mary Nelson (District 112) and Tim Nason (District 53) on account of advertisements taken out in the local weekly newspaper by Dow Investment Group LLC (Dist. 112) and a direct mail advertisement sent by Leslie Fossel's business, Restoration Resources (District 53).

Under Maine law, if the advertisement is made for the purpose of influencing the election, it is an "expenditure" and may trigger matching funds. There may also be other implications for William C. Dow and for Dow Investment Group LLC, and for Lesley Fossel and his company.

1. William C. Dow (District 112)

Although the advertisements in question appear on their face to relate to the Dow Investment Group LLC, there are several indications that the advertisements were in fact placed for the purpose of influencing Mr. Dow's election campaign and that they may have that effect.

First, the launch of these advertisements appears to have coincided with the launch of William C. Dow's campaign. Although Dow Investment Group LLC has been in business for some time and has advertised widely, to the best of my knowledge this particular advertisement did not appear in any publication before Mr. Dow became a candidate several weeks ago. Mr. Dow is a replacement candidate for David Savage, who withdrew in July.

Second, William C. Dow is featured prominently in the advertisements, both by a large portrait photograph and by his name in relatively large font. The email address listed as a contact is that of William C. Dow. It is fair to say that the advertisement is almost as much an advertisement for Mr. Dow as for Dow Investment Group LLC.

Preti Flaherty Beliveau & Pachios LLP Attorneys at Law

45 Memorial Circle | Augusta, ME 04330 | Tel 207.623.5300 | Fax 207.623.2914 | Mailing: P.O. Box 1058 | Augusta, ME 04332-1058

Augusta Bath Boston Concord Portland
1389153.1

www.preti.com

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Third, the photograph of Mr. Dow in the advertisements is identical to the photograph that appears in Mr. Dow's campaign materials. An example is enclosed from a photograph Mr. Dow's campaign submitted to the web page My Maine Today. The repeated use of one identical image is a well known way of reinforcing voter recognition in a political campaign.

Fourth, although the Forecaster newspaper has five different editions, to the best of my knowledge the advertisement appears only in the Northern Edition of the Forecaster – the edition distributed in the legislative district in which Mr. Dow is a candidate. Moreover, to the best of my knowledge, the advertisement does not appear in any other publication anywhere in Maine.

Fifth, although the Dow Investment Group LLC web page section entitled "Print Advertising" features four different advertisements, the advertisement in question does not appear there. The web page does, however, feature an advertisement with a different photograph of William C. Dow (i.e. not the photograph in his campaign literature), and lacking the prominent use of his name. If the purpose of the Forecaster advertisement were merely to advertise for Dow Investment Group LLC, one would ask why Dow Investment Group LLC would create a new advertisement during the campaign season featuring William C. Dow so prominently, rather than using one of its existing advertisements. And one would ask why such advertisement is not included on the Dow Investment Group LLC web page.

Sixth, as a "managing director" of Dow Investment Group LLC, it is likely that William C. Dow is in a position to influence the advertisements of the company. Nonetheless, the "purpose" analysis is appropriate even if William C. Dow did not personally arrange for the advertisements.

The Commission may also wish to inquire whether the Dow Investment Group LLC has arranged with the Forecaster to continue to run the advertisement of William C. Dow after the November 4th election. If the Forecaster has been instructed to replace or terminate this advertisement after November 4th, such information would further confirm that a purpose of the advertisement was to influence the election of William C. Dow.

While any one of these factors in isolation might not establish the purpose of the advertisement beyond any doubt, the totality of the circumstances demonstrates that the purpose was to increase William C. Dow's name recognition among the voters of District 112 and thereby influence the outcome of the election.

2. Leslie Fossel (District 53)

The direct mail sent by Les Fossel appears to have been sent to at least homes in House District 53 and describes among other nonbusiness matters, information regarding LIHEAP. Although the direct mail in question appears on its face to relate to Fossel's business, Restoration Resources, there are several indications that the direct mail advertisement was in fact placed for the purpose of influencing Mr. Fossel's election campaign and that it may have that effect.

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First, the launch of Fossel's direct mail advertisement appears to have coincided with Fossel's campaign for the House. Although Fossel has been in business for some time and has advertised widely, to the best of our knowledge this particular direct mail advertisement did not appear in any publication or had ever been sent before Mr. Fossel became a candidate.

Second, Leslie Fossel is featured prominently in the direct mail advertisement, both by a large portrait photograph and by his name in relatively large font. Neither of which are featured on the website of Restoration Resources. See www.oldhouserestoration.com. The email address listed as a contact is fossel@oldhouserestoration.com, which is the same e-mail included on Fossel's candidate registration with the Ethics Commission. It is fair to say that the direct mail advertisement is almost as much an advertisement for Fossel as for Fossel's business.

Third, the photograph of Fossel in the advertisements appears identical to the photograph that appears in Fossel's campaign materials. The repeated use of one identical image is a well known way of reinforcing voter recognition in a political campaign.

Fourth, the website of Fossel's business, Restoration Resources, does not contain a photograph of Fossel. Why would a prominent piece of direct mail be sent from Fossel's business throughout Fossel's district, discussing energy conservation and LIHEAP, if for no other reason than to increase Fossel's recognition and to influence his campaign for the House of Representatives. If the purpose of the direct mail advertisement were merely to advertise for Restoration Resources, one would ask why Fossel would create a new advertisement during the campaign season featuring himself so prominently, rather than using an existing advertisement.

Fifth, Fossel is the owner of Restoration Resources and is clearly in a position to influence the advertisements of the company.

The Commission may also wish to inquire whether Fossel and Restoration Resources plan to continue to distribute this direct mail or other direct mail featuring Fossel prominently after the November 4th election. If there are plans to replace or terminate the distribution of Restoration Resources direct mail after November 4th, such information would further confirm that a purpose of the advertisement was to influence the election of Fossel.

While any one of these factors in isolation might not establish the purpose of the advertisement beyond any doubt, the totality of the circumstances demonstrates that the purpose was to increase Leslie Fossel's name recognition among the voters of District 53 and thereby influence the outcome of the election.

Mary Nelson and Tim Nason presumably undertook to be MCEA candidates upon the promise of a level playing field. The Commission must address this issue in order to preserve the integrity of the Clean Election system and to ensure that Ms. Nelson and Mr. Nason are not unfairly disadvantaged.

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If the Commission determines that either of these advertisements is an "expenditure," and if the Commission further determines that either was placed in "cooperation, consultation or concert with or at the request or suggestion of" William C. Dow or his campaign or Leslie Fossel or his campaign, it may also be an unlawful contribution to their campaigns. 21-A M.R.S.A. §1015(5).

We respectfully request that the Commission immediately allocate Clean Election matching funds to Mary Nelson (District 112) and Tim Nason (District 53) equal to the total amount expended or committed for all such unreported advertisements, and order any other remedy the Commission finds appropriate. As the Commission is surely aware, soon a candidate will be unable effectively to use matching funds. Under the circumstances, an expeditious resolution is essential.

Thank you for your attention to this matter.

Sincerely,

Daniel W. Walker/s/

Daniel W. Walker
Counsel to the Maine Democratic Party

Center, 317 Main St., Yarmouth, 846-9559.

Museums

Saturday 10/11

Portland Fire Museum Open House, historical films, horses, exhibits, 9 a.m.-3 p.m., \$5 donation/\$3 children, 157 Spring St., Portland, 772-2040.

Ongoing

Children's Museum of Maine, ongoing cultural, educational, fun and active workshops for kids and parents, 142 Free St., Portland, call 828-1234 or visit kittetails.com for details.

Museum at Portland Head Light, daily 10 a.m.-4 p.m., 1000 Shore Road, Cape Elizabeth, 799-2661 or portlandheadlight.com.

Museum of African Culture, 13 Brown St., Portland, 871-7188 or museumafricanculture.org.

Neal Dow Memorial, Federal-style mansion built in 1829 for Maine politician, abolitionist and prohibitionist, original silver, china, portraits and furniture, 714 Congress St., Portland, free, 773-7773.

Portland Fire Museum, every Friday 12-8 p.m., \$5 adults, \$2 children age 7+, 157 Spring St., Portland, portlandfiremuseum.com.

caisson lighthouse, summer house schedule Saturdays 11 a.m.-3 p.m. through Oct. 11, call ahead 699-2676, springpointlight.org.

Tate House Museum, "Highlighting Functional Elegance" through Oct. 11, house tours Tuesday-Saturday, 10 a.m.-4 p.m.; \$10; garden tours every Wednesday, \$7 adult, \$5 senior, \$2 child; 1267 Westbrook St., Portland, 774-6177 or tate-house.org.

Wadsworth-Longfellow House, \$8 adult, \$7 senior/student, \$3 child, Maine Historical Society, 489 Congress St., Portland, 774-1822 or mainehistory.org.

continued next page

WILLIAM C. DOW



Invested in mutual funds?
We need to talk.

William C. Dow, Managing Director & Financial Advisor



DOW
INVESTMENT GROUP LLC

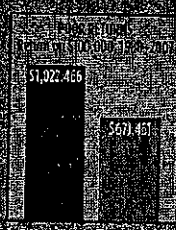
Sound advice for generations

358 US Route One, Yarmouth, Maine 04095 • 207-878-4373 • 800-578-8053

Services offered through DOW Equity Securities Corporation, FINRA SIPC, MSRB. Advisory services provided through DOW Global Asset Management, an SEC Registered Investment Advisor, 379 Main St., Boston, MA 02101, 978-779-5561.

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Time is money. But time is also your most valuable asset. And it's the only asset you can't replace. That's why it's so important to make the most of it. By investing in mutual funds, you can grow your money over time, while keeping your investments diversified. And you can do it with as little as \$100. So why not start today?



It all explains our strategy. At Dow, we invest in carefully selected quality stocks and bonds, not in packaged investment products. We build portfolios that work harder, using a traditional investment approach that has served our clients well for 70 years.

For a talk about how the Dow Investment Group can work for you, call for an appointment or send us a copy of your portfolio for a no-cost analysis.

800-578-8053
william.dow@dows.com
dows.com

October 9, 2008

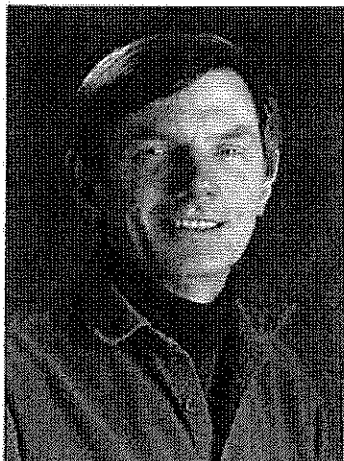
Arts & Entertainment Calendar

Blue Forest

Portland Harbor Museum, "Four Stories: Inside the Portland Harbor Museum Collection," through Nov. 30, Southern Maine Community College, Port Road, South Portland.

Falmouth Heritage Museum, by appointment only, 60 Woods Road, Falmouth, 781-4727.

Fifth Maine Regiment Museum, from previous page, Forest Ave., Portland, 699-2955 or susanmashfiheart.com.



LES FOSSEL

RESTORATION RESOURCES

KEEP WARM — SAVE MONEY

Although we've built our reputation on the fine restoration of early houses, in fact we've been making old buildings energy efficient for 33 years. It's time we share what we've learned. We hope this information helps you save money this winter - and for many years to come.

The enclosed **ENERGY SAVINGS CHART** should help you save time and money:

Rows printed in **GREEN** are most likely to save you money this year.

Rows printed in **ORANGE** have a longer payback.

Rows printed in **RED** are not likely to save you money.

The items on the chart are also grouped by type:

The 1st group will lower your winter heating costs.

The 2nd group will lower your appliance operation costs.

The 3rd group will lower your hot water heating costs.

We have tried to give costs for the average house and condition. We have used conservative figures, so your savings will be in the range we suggest. Since every house is different, the work you need to do and your savings will also vary. You probably can do much of this work yourself. If you can't, think about who you know who can help. If you need further suggestions, contact us and we'll see what we can do.

If you need financial help for necessary energy improvements, or for energy assistance, the programs available are summarized on the back page.

If you own an old house and want to plan for the longer term, contact us. You can visit our website, **www.oldhouserestoration.com**, or request our information package. Our 12 employees work exclusively on old buildings. We guarantee our work permanently against defects of workmanship and materials. We are a very good value if you have an old house and respect its traditional appearance.

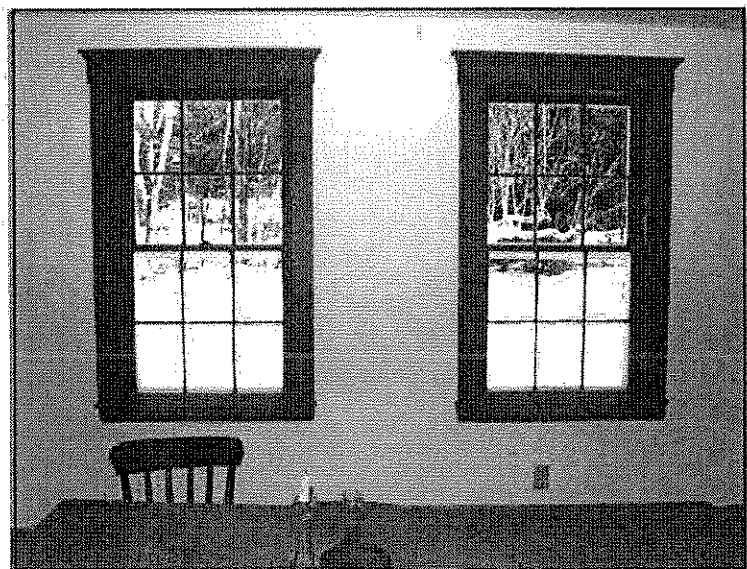
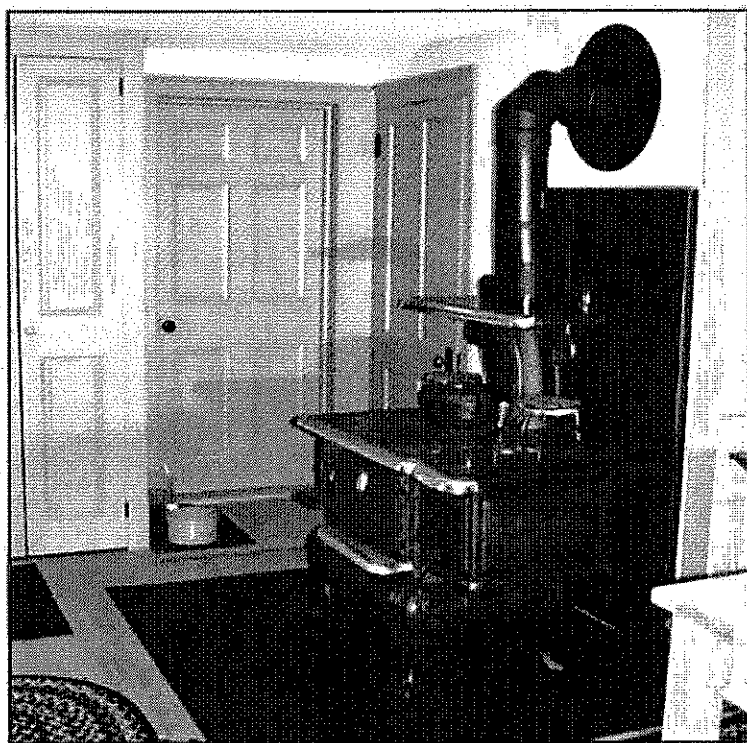
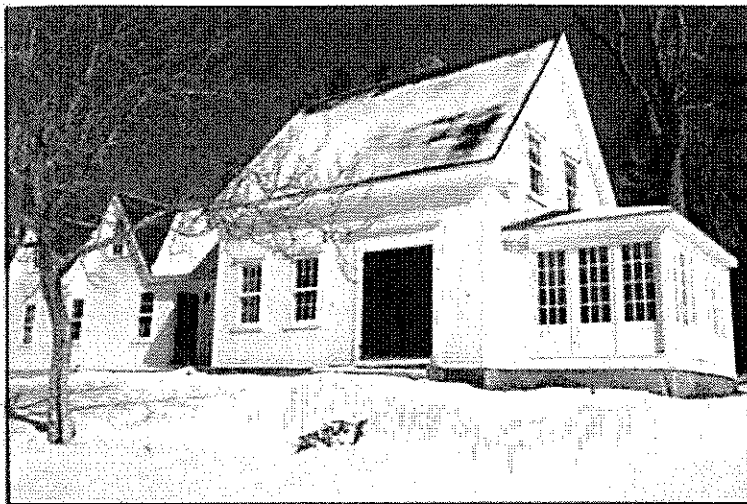
Where Home Energy Dollars Go

Heat	40%
Appliances & Lights	35%
Water Heater	13%
Other	12%

Cheap Ways to Save Money

1. Close storm windows, doors, & dampers.
2. Seal up cracks so the heat stays in.
3. Heat only the parts of the house you use.
4. Insulate all your pipes & warm air ducts.
5. Install interior storm windows.
6. Install a programmable thermostat.
7. Increase your attic insulation to R-49.





Start at the top and work your way down the list
1 year payback, you should save money this win

HEATING SYSTEM

What/Where	Save	Cost	Pay
Furnace	3%	\$ 100	1
Ducts / Baseboard	2%	\$ -	1
Warm Air Ducts	2%	\$ -	1
Storm Windows	2%	\$ -	1
Fireplaces	2%	\$ -	1
Windows	2%	\$ -	1
Warm Air Filters	2%	\$ 20	1
Thermostat	10%	\$ 90	1
Electric Outlets	2%	\$ 30	1
Storm, Interior	3%	\$ 50	1
Foundation	2%	\$ 50	1
Exterior Doors	2%	\$ 20	1
Attic Entrance	2%	\$ 10	1
Baseboard	2%	\$ 10	1
Ducts or Pipes	4%	\$ 100	1
Cellar Bulkhead	2%	\$ 50	1
Windows	2%	\$ 50	1
Shades & Curtains	2%	\$ 120	2
Attic floor	20%	\$ 630	3
Storm Doors	1%	\$ 300	4
Storm Windows	2%	\$3,000	4
Exterior Walls	7%	\$1,400	5
Heat Distribution	20%	\$2,000	5
Foundations	5%	\$1,500	8
Furnace	20%	\$6,000	10
Window Sash	1%	\$4,000	20
Light Bulbs	25%	\$ 4	2
Clothes Washer	60%	\$ 200	4
Dishwasher	50%	\$ 200	4
Refrigerator	50%	\$ 300	4
Freezer	60%	\$ 200	4
Water Lines	5%	\$ 10	1
Showers, Faucets	10%	\$ 20	1
Boiler	15%	\$ 400	1
Electric	30%	\$1,000	2
Gas	30%	\$1,000	2

APPLIANCES

HOT WATER

Thanks to Nick Caristo for helping create this spreadsheet.

HOW TO REACH US

E-mail fossel@oldhouserestoration.com

crossing out items that you've accomplished. By the time you've done the green line items that have a er and for many years to come. **Good Luck!**

Task	Who	What You Need To Do	Other Benefits, Considerations
r	Professional	Have your furnace serviced.	Will last longer & operate more safely.
r	Homeowner	Vacuum warm air ducts or baseboard fins.	Keeps dust down.
r	Homeowner	Close warm air ducts in unused spaces.	Keep these areas separate from warmer rooms.
r	Homeowner	Make sure they all are fully closed.	Make sure weep holes are kept open.
r	Homeowner	Make sure the dampers are closed.	Keeps out birds & bats. Save more with fireplace cover.
r	Homeowner	Make sure the locks are closed to cut drafts.	Keeps storm windows from fogging up.
r	Homeowner	Replace 2-3 times on warm air furnaces.	Furnace will last longer.
r	Professional	Install programmable thermostat.	7 day schedule, or weekday & weekend.
yrs	Homeowner	Install gasket & childproof plugs.	Makes electrical outlets safer around small children.
yrs	Homeowner	Install plastic storms on window frame.	Cuts outside noise. Can be temporary or permanent.
yrs	Homeowner	Seal masonry cracks, cellar windows, & sills.	Reduces water infiltration.
yrs	Homeowner	Adjust to close tightly, weather-strip.	Reduces outside noise.
yrs	Homeowner	Weather-strip, insulate.	Keeps condensation out of attic.
yrs	Homeowner	Caulk between the floor and the baseboard.	Lessens condensation inside walls.
yrs	Homeowner	Insulate in unheated areas.	Heat comes up faster, reduces condensation.
yrs	Homeowner	Insulate bulkhead door & seal cracks.	Cellar entrances need a bulkhead and a door.
yrs	Homeowner	Weather-strip, seal & adjust for tight fit.	Reduces outside noise.
yrs	Homeowner	Install on window frame.	Cuts noise. Decorative. Price varies. Can reduce light.
yrs	Professional	Insulate to R-49.	Fewer ice dams. Professionals are a better value.
yrs	Professional	Install on all exterior doors.	Keeps door sill dry. Allows a screen option.
yrs	Professional	Install over windows, replace if worn out.	Stops driving rain, protects sash. Keep weep holes open.
yrs	Professional	Insulate to R-19 (blow in fiberglass).	Reduces outside noise, Cellulose holds more moisture.
yrs	Professional	Zone heat by area with thermostats.	Can vary heat by areas used. Easier with baseboard heat.
yrs	Professional	R-10 inside above & outside below grade.	Drier cellar, no frost heaves. Waterproof below grade.
yrs	Professional	Install new furnace.	More efficient & reliable. Wood pellet fuel is cheapest.
yrs	Professional	Replace existing window sash.	Poor Value. Storms windows are cheaper & better.
yrs	Homeowner	Install compact florescent bulbs.	Last 10 times longer. Replace most used bulbs first.
yrs	Professional	Buy & install Energy Star appliance.	Uses up to 75% less water, Front load type best.
yrs	Professional	Buy & install Energy Star appliance.	Uses up to 80% less water.
yrs	Professional	Buy & install Energy Star appliance.	Freezer on bottom most efficient.
yrs	Professional	Buy & install Energy Star appliance.	Chest type most efficient, upright more convenient.
yrs	Homeowner	Insulate with seam facing down.	Faster heat, hot & cold water. Less condensation.
yrs	Homeowner	Install low flow units.	Hot water will last thru more showers.
yrs	Professional	Install electronic water controller.	With baseboard heat. Best during heating season.
yrs	Professional	Install tankless hot water heater.	Electric is less expensive.
yrs	Professional	Install gas hot water heater.	Vented heaters are better.

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Call Les Fossel at 586-5680 **Write** Restoration Resources PO Box 525 Alna, ME 04535

HOME ENERGY LOANS

MaineHousing's HomeEnergyLoanProgram (HELP) offers loans at a low fixed rate of only 3.95% (4.194%APR) for home improvements that increase home energy efficiency. Loan amounts range from \$2,800 to \$30,000, with loan terms of up to 15 years. (Rates and terms are subject to change.) For loans repaid over 15 years, the monthly payment would be \$7.37 for every \$1,000 borrowed. There is no down payment on a HELP loan. A property appraisal may be required, but often is not.

HELP loans may be used to finance:

- Home energy audits
- Insulation, air sealing, and weather stripping
- Heating system repair or replacement
- Energy Star rated windows and appliances
- Storm doors and storm windows
- Ventilation and moisture controls
- Roof repairs (if attic is insulated to R38)

Heating system improvements may include furnace cleaning and tune-ups, replacement burners and/or fuel storage tanks, and replacement systems and supplemental heating systems if they meet certain efficiency standards. Efficient wood stoves, wood pellet systems, geothermal heat pumps, and solar thermal hot water systems are among the possible heating system improvements.

Am I Eligible?

You may be eligible for a HELP loan if:

- You own and occupy a 1 to 4-unit home.
- Your total monthly debt payments are 45% or less of your total monthly income
- Your total home loans, including the energy loan, do not exceed 106% of your home's value (100% or less for mobile homes).

While household income limits apply, most Maine homeowners are income eligible for a HELP loan.

How Do I Apply?

You may apply at any of the following lenders:

Bath Savings Institution (800) 447-4559
Camden National Bank (800) 860-8821
The First, N.A. (800) 564-3195

LOW INCOME HOME ENERGY ASSISTANCE

Program Summary

The Low-Income Home Energy Assistance Program (LIHEAP) provides money to help low-income homeowners and renters pay for heating costs.

Am I Eligible?

The amount of assistance you may get from LIHEAP is based on your household size and income, energy costs, and other factors. You may be eligible for assistance if your total household income falls within 170% of the federal poverty guidelines.

If your heat is included in your rent, you may still apply for LIHEAP. If you have less than 1/4 tank of heating fuel or are in danger of having utility services disconnected and you have no way to pay your energy company, LIHEAP also may make an emergency fuel payment for you so that you will stay safe and warm. If you are eligible for LIHEAP, you also may qualify for other programs that require LIHEAP eligibility:

- If you receive residential electric service from an electric utility and you are not living in government subsidized housing, you may be eligible for assistance with your electric bills from your electric utility's Low Income Assistance Plan (LIAP).
- If you pay your own electric bill, you may be eligible for a new, energy-efficient refrigerator from MSHA's Appliance Replacement Program.
- If your home is not as energy efficient as it could be, you may qualify for home improvements through our Weatherization Program.
- If your heating system is in need of repair or replacement, you may qualify for the Central Heating Improvement Program (CHIP).

How Do I Apply?

To apply for LIHEAP and to be automatically considered for the Low Income Assistance Plan and the Appliance Replacement, Weatherization and Central Heating Improvement programs, call MSHA at (800) 452-4668, or visit the website: www.bundlemeup.org or www.mainehousing.org/ENERGYPrograms.aspx

Applications for LIHEAP are accepted from July 1 to April 30 of each year. At the time of application, you should be prepared to provide:

- Names and social security numbers of all people in your household.
- Proof of gross household income for the last 3 or 12 months (wages, social security, unemployment, pension, and disability payments are all considered to be income).
- Proof of address (a rent receipt, lease, deed, or property tax bill).
- Recent copies of your energy and utility bills.

Les Fossel
Restoration Resources
PO Box 525
Alna, ME 04535
www.oldhouserestoration

PSRST STD
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Marketing, Inc.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: October 24, 2008

Re: Relevant Law Regarding Maine Democratic Party Complaints against
William C. Dow and Les Fossel

Maine Clean Election Act Financing

One goal of the MCEA is to keep participating candidates on an even-playing field with their opponents in the general election. Once a candidate qualifies to receive public funding under the MCEA, they are prohibited from accepting cash or in-kind contributions. (21-A M.R.S.A. § 1125(6))

Every House candidate receives the same initial payment for the general election, \$4,144. Some House candidates also qualify for additional matching funds, which are paid to keep candidates on equal financial footing. If a MCEA candidate's traditionally financed opponent raises or spends more than the amount of the initial MCEA payment, the MCEA candidate receives matching funds to keep them on an even playing field with the opponent. Independent expenditures made by outside groups on communications to voters in support of a candidate are counted toward that candidate's total. (21-A M.R.S.A. § 1125(9))

Definition of Contribution

In the Election Law, a contribution to a candidate is defined as:

A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office (21-A M.R.S.A. § 1012(2)(A)(1)) (emphasis added)

The Commission's rules describe in-kind contributions as:

Unless specifically exempted under Title 21-A M.R.S.A. §§ 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not

limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee. (Commission Rules, Chapter 1, Section 6(4))

Expenditures by Outside Groups Coordinated with a Candidate

If a candidate coordinates with an outside group on an expenditure to promote the candidate's election, the candidate has received an in-kind contribution:

Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate. (21-A M.R.S.A. § 1015(5))

Independent Expenditures (statute attached)

Maine Election Law requires the reporting of independent expenditures for communications to voters that “expressly advocate[] the election or defeat of a clearly identified candidate” (21-A M.R.S.A. § 1019-B(1)(A)) The express advocacy standard in the statute does not apply to expenditures that are made “by contribution to a candidate or a candidate’s authorized political committee”

Within the last 35 days before a general election (beginning on October 1, 2008), a much wider definition of independent expenditure applies. An independent expenditure is presumed in races involving a Maine Clean Election Act candidate if a communication merely names or depicts a clearly identified candidate. (21-A M.R.S.A. § 1019-B(1)(B)) A person presumed to have made an independent expenditure may rebut the presumption by filing a written statement that the expenditure was not made to influence the election. Then, the Commission must determine by a preponderance of the evidence whether the cost was incurred with the intent to influence the election.

21-A MRSA §1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

- A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and
- B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 35 days, including election day, before a general election; or during a special election until and on election day.

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

3. Report required; content; rules. A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of \$100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of \$100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.